

Message Text

UNCLASSIFIED

PAGE 01 MOSCOW 12235 01 OF 02 311820Z
ACTION EUR-12

INFO OCT-01 ISO-00 EB-08 L-03 TRSE-00 OPIC-06 STR-07
CIAE-00 INR-10 NSAE-00 /047 W
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TO SECSTATE WASHDC 2402
INFO USDOC WASHDC

UNCLAS SECTION 01 OF 02 MOSCOW 12235

USDOC FOR BEWT

E.O.11652: N/A

TAGS: EEWT, EGEN, ETRD, UR

SUBJECT: NEW SOVIET TAX ON FOREIGN COMPANIES

REF: MOSCOW 11630

SUMMARY. EMBASSY HAS RECEIVED AND IS FORWARDING TO DEPARTMENT COPY OF SOVIET DECREE DATED MAY 12, 1978, CONCERNING INCOME TAXES LEVIED ON FOREIGN JURIDICAL AND PHYSICAL PERSONS IN USSR. DEPUTY MINISTER MANZHULO TOLD E/C COUNSELOR THAT NEW DECREE WILL PROBABLY TAKE EFFECT JULY 1 BUT WILL RESPECT TERMS OF US-SOVIET CONVENTION ON TAXATION. HE SUGGESTED WE CONSULT LEGAL AND TREATY BRANCH OF MFT. NEW DECREE PROVIDES FOR FORTY (40) PERCENT LEVY ON "INCOME" RECEIVED BY FOREIGN JURIDICAL PERSONS FROM "REALIZATIONS" ON SOVIET TERRITORY, EITHER DIRECTLY OR THROUGH ACTIVITIES OF ACCREDITED REPRESENTATIONS IN USSR. END SUMMARY.

1. AT RECEPTION GIVEN BY ARMAND HAMMER MAY 25, E/C COUNSELOR ASKED DEPUTY MINISTER OF FOREIGN TRADE MANZHULO ABOUT REPORT OF WHICH WE HAD JUST HEARD CONCERNING A NEW SOVIET DECREE ON TAXATION OF FOREIGN FIRMS OR PERSONS IN THE USSR. MANZHULO RESPONDED THAT THERE WAS SUCH A DECREE. HE THOUGHT THAT IT WOULD TAKE EFFECT ON JULY 1. COUNSELOR INQUIRED ABOUT TERMS OF DECREE IN RELATION TO UNCLASSIFIED

UNCLASSIFIED

PAGE 02 MOSCOW 12235 01 OF 02 311820Z

CONVENTION ON TAXATION BETWEEN U.S. AND U.S.S.R. MANZHUL REPLIED THAT THE DECREE CAREFULLY EXCLUDED FROM TAXATION THOSE MATTERS EXEMPTED BY TAX CONVENTION. HE RECOMMENDED THAT WE DISCUSS THE DECREE WITH THE TREATY AND LEGAL DIVISION OF THE MINISTRY OF FOREIGN TRADE. (MFT LAWYER T TOLD US LATER THAT SUCH A DISCUSSION IS STILL PREMATURE.)
2. SUBSEQUENT TO THIS CONVERSATION WE OBTAINED FROM GERM

EMBASSY A COPY OF A DOCUMENT IN RUSSIAN LANGUAGE, WITHOUT LETTERHEAD (BEING POUCHED TO EUR/SOV) ENTITLED "BRIEF INFORMATD, ON TAXES LEVIED IN THE USSR ON FOREIGN JURIDICAL AND PHYSICAL PERSONS." DOCUMENT STATES THAT PRESENT SOVIET LEGAL TAX SYSTEM HAS NO SPECIAL PROVISIONS FOR TAX ON FOREIGNERS. IT ADDED, HOWEVER, THAT IN PRINCIPLE ALL FOREIGNERS WHO HAVE INCOME OR OTHER FORMS OF WAGES IN THE USSR FROM ANY ENTERPRISE, INSTITUTION OR ORGANIZATION, WHETHER IT BE REMUNERATION FROM WORK OR FROM ANY PROPERTY SUCH AS A HOME, AGRICULTURAL PLOT, MEANS OF TRANSPORT, ETC., ARE TO PAY TAXES AND DUTIES IN THE SAME MEASURE AS SOVIET CITIZENS. SUCH TAXES AND DUTIES INCLUDE (1) INCOME TAX; (2) AGRICULTURAL TAX; (3) BUILDING TAX; (4) LAND RENT (ZEMELNAYA RENTA); (5) DUTY ON POSSESSION OF MEANS OF TRANSPORT.

3. DOCUMENT THEN SUMMARIZES UNDER "INCOME TAX" THE DECREES OF THE PRESIDUM OF THE SUPREME SOVIET OF APRIL 30, 1943 AND MAY 12, 1978. THIS SECTION INCLUDES THE SENTENCE: "FOREIGN CITIZENS WORKING IN THE USSR OR HAVING ON THE TERRITORY OF THE USSR ANY OTHER SOURCES OF INCOME, ARE OBLIGED TO PAY TAXES ON INCOME FROM THESE SOURCES ON THE SAME BASIS AS CITIENS OF THE USSR." THE SECTION DOES NOT DISTINGUISH BETWEEN THE TWO DECREES, AND THERE IS NO WAY OF KNOWING WHAT WAS INTRODUCED ON MAY 12 WITHOUT REVIEWING LANGUAGE OF THE DECREE OF 1943.
UNCLASSIFIED

UNCLASSIFIED

PAGE 03 MOSCOW 12235 01 OF 02 311820Z

4. DOCUMENT NEXT SUMMARIZES AGRICULTURAL TAX, BUILDING TAX AND GROUND RENT, AND DUTY ON POSSESSION OF MEANS OF TRANSPORT, ALL OF WHICH STEM FROM DECREES OF AUGUST 8, 1953 OR APRIL 10, 1942.

5. UNDER FINAL SECTION CAPTIONED "INCOME TAX ON FOREIGN JURIDICAL PERSONS" OUR FREE TRANSLATION IS AS FOLLOWS (LETTERS ON SUB-PARAGRAPHS SUPPLIED):

DECREE OF THE PRESIDUM OF THE SUPREME SOVIET OF THE USSR OF 12 MAY 1978.

(A) INCOME RECEIVED BY FOREIGN JURIDICAL PERSONS FROM REALIZATIONS (OSUSHCHESTVLENIE) ON THE TERRITORY OF THE USSR, BOTH DIRECTLY AND THROUGH THE ACTIVITIES OF THEIR REPRESENTATIONS PERMITTED BY THE ESTABLISHED ORDER, IS LIABLE TO TAXATION BY INCOME TAX AT THE RATE OF 40 PERCENT

(B) IN THOSE CASES WHEN TAXES ARE LEVIED IN A FOREIGN STAT AT HIGHER OR LOWER NORMS/RATES ON SUMS OF ANALOGOUS CATEGORIES OF INCOME RECEIVED BY JURIDICAL AND PHYSICAL

PERSONS OF THE USSR IN THE GIVEN STATE, THESE HIGHER OR LOWER NORMS/RATES MAY BE APPLIED TO THE TAX OBLIGATION OF JURIDICAL AND PHYSICAL PERSONS OF THE CORRESPONDING STATE IN THE USSR.

(C) WITH REGARD TO INCOME OF FOREIGN JURIDICAL PERSONS IN THE SOVIET STATE, PAYMENTS MAY NOT BE LEVIED ON INCOME OF FOREIGN COMPANIES AND FIRMS, HOWEVER ONLY ON THE CONDITION OF RECIPROCITY IN CONFORMITY WITH AGREEMENTS CONCLUDED BY THE USSR WITH FOREIGN STATES.

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PAGE 01 MOSCOW 12235 02 OF 02 311822Z
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UNCLAS SECTION 02 OF 02 MOSCOW 12235

(D) THIS PROCEDURE MAY BE APPLIED ALSO IN RELATION TO THE RELEASE FROM TAXATION OF INCOME OF FOREIGN PHYSICAL PERSONS.

6. COMMENT: IT IS NOT PRESENTLY CLEAR WHAT SORT OF INCOME BY "FOREIGN JURIDICAL PERSONS" WILL BE SUBJECT TO THE FORTY PERCENT TAX RATE. SOVIET OFFICIALS APPARENTLY ARE NOT YET WILLING TO DISCUSS THE MATTER WITH US. AS WE PREVIOUSLY INDICATED (REFTEL), OUR READING OF TAX CONVENTION IS THAT SOVIETS MAY LEVY TAXES ON INCOME FROM COMMERCIAL ACTIVITY ONLY ON US FIRMS HAVING AN ACCREDITED REPRESENTATION OFFICE IN THE USSR. SINCE IN PRACTICE FOREIGN COMPANIES HAVE NOT, TO OUR KNOWLEDGE, PAID INCOME TAX IN THE PAST, IT REMAINS TO BE SEEN WHAT SOVIET AUTHORITIES HAVE IN MIND. IF THE NEW MEASURE IMPOSES A SPECIAL AND SUBSTANTIAL PENALTY ON ACCREDITED FIRMS, ACCREDITATION ITSELF WOULD PROBABLY APPEAR CONSIDERABLY LESS ATTRACTIVE. UNLESS SOVIETS WANT TO DISCOURAGE SUCH FIRMS - AND WE HAVE NO PRESENT REASON TO BELIEVE THEY DO - WE WONDER ABOUT THE PURPOSE OF THE NEW DECREE. WE SHALL BE DISCUSSING IT WITH THE APPROPRIATE SOVIET AUTHORITIES

AS SOON AS THEY MAKE THEMSELVES AVAILABLE FOR SUCH
DISCUSSION. MATLOCK

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Message Attributes

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